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225 LIBERTY STREET, 28TH FLOOR NEW YORK, NEW YORK 10281-1008

www.sedgwicklaw.com 212.422.0202 phone 212.422.0925 fax

Timothy D. Kevane

212-898-4008

timothy.kevane@sedgwicklaw.com

April 21, 2015

**Via Messenger**

Hon. Colleen McMahon  
United States District Court  
500 Pearl Street, Room 1640  
New York, NY 10007

Re: Consolidated Edison Company of New York, Inc. v. Lexington Insurance Company  
Case No. 14-cv-06547-CM  
Our File No.: 2331-07950

Dear Judge McMahon:

**MEMO ENDORSED**

We represent defendant Lexington Insurance Company ("Lexington") in the above matter. By this letter, we request leave to file under seal copies of certain documents which Lexington will cite to in support of a motion for partial summary judgment which it is prepared to file. In that regard, we request interim authorization to file the papers on ECF in redacted form, pending Your Honor's further review of the documents to determine whether the unredacted versions may be filed under seal.

We are submitting this letter to Your Honor after having first submitted the request to Magistrate Judge James L. Cott on April 20<sup>th</sup>. Judge Cott directed that the request be made to Your Honor (our letter to Judge Cott and his instructions are enclosed).

On March 6, 2015, Magistrate Judge Cott signed the Stipulated Protective Order in this case (Dkt. # 30-1; copy attached). The Protective Order provides in pertinent part as follows:

6. CONFIDENTIAL MATERIAL (a) shall not be disclosed by or on behalf of any Party to any person identified in Paragraph 4.c - d above, unless and until the disclosing Party notifies such other person that the material is confidential and subject to the restrictions imposed by this Order; and (b) may be disclosed to the Court in connection with a motion, pleading, or other communication pertaining to this action, provided that the disclosing Party files the unredacted CONFIDENTIAL MATERIAL and any related submission under seal and any redacted copies with the Clerk on the docket, and apprises the Court of the confidential designation of the materials and/or information in question.

4/23/2015  
I have renewed  
your filing. I see  
nothing that even  
arguably might  
qualify as a "trade  
secret" or otherwise  
require confidentiality.  
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Documents submitted in support of a summary judgment motion may constitute “judicial documents,” to which a strong presumption of access attaches. Lugosch v. Pyramid Co. of Onondaga, 435 F.3d 110, 121 (2<sup>nd</sup> Cir. 2006). Nonetheless, legitimate privacy interests are “a venerable common law exception to the presumption of access.” United States v. Amodeo, 71 F.3d 1044, 1051 (2<sup>nd</sup> Cir. 1995).

The documents to be filed under seal were designated confidential by Con Edison pursuant to the Protective Order (except for Ex. 9, which was by a third-party). Con Edison stated that the documents are “sensitive, confidential business information ... which constitutes a trade secret or other confidential research or commercial information” under FRCP 26(c)(1)(G) (Dkt # 30).


The exhibits which we request leave to file under seal are:

- Exhibit 6 – AEGIS insurance policy
- Exhibit 7 – EIM insurance policy
- Exhibit 8 – letter dated October 31, 2007 from Con Edison to AEGIS
- Exhibit 9 – collective letters from Con Edison to AEGIS
- Exhibit 12 – Con Edison/Team contract
- Exhibit 18 – Con Edison/Lexington release agreement
- Exhibit 19 – Con Edison May 5, 2011 memo

We also request leave to redact those portions of the Memorandum of Law and Statement of Material Facts that may refer to confidential information. The subject exhibits, the Memorandum and the Statement (unredacted and redacted versions) are enclosed herewith for the Court’s review.

Accordingly, we respectfully request that Your Honor “So Order” this letter.

Respectfully,

  
Timothy D. Kevane  
Sedgwick LLP

Encls.

cc: David L. Elkind (Counsel for Plaintiff)

Defendant Lexington Insurance Company is hereby authorized to file the aforementioned papers and exhibits in redacted form until further order of this Court.

**SO ORDERED:**

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HON. COLLEEN McMAHON  
United States District Judge  
Date: \_\_\_\_\_